

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

BUILDING CODE APPEALS BOARD  
DOCKET NO. 11-1038, 1039, 1040, 1041,  
1042.

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Mechanic Mill One LLC,  
Appellant  
  
v.  
  
City of Fall River,  
Appellee

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**BOARD'S DECISION ON APPEAL**

**Introduction**

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal application filed pursuant to G.L. c.143, §100 and 780 CMR 122.1 ("Application"). Appellant sought variances from the following provisions of the 8<sup>th</sup> Edition of the State Building Code: 780 CMR 1009.4, 1012.6, 1022.3, 1022.6, and 1301.1.1 with respect to the renovation of an existing mill building located at 1082 Davol Street, Fall River, MA ("Project").

**Procedural History**

On or about August 21, 2011, the City of Fall River issued a Notice of Violation of State Building Code, citing violations of 780 CMR 1009.4, 1012.6, 1022.3, 1022.6, and 1301.1.1. The Board convened a public hearing on September 20, 2011, in accordance with G.L.c. 30A, §§10 & 11; G.L.c. 143, §100; 801 CMR 1.02; and 780 CMR 122.3. All interested parties were provided an opportunity to testify and present evidence to the Board.

**Discussion**

The Project consists of converting existing factory/office spaces within a brick mill building containing approximately 205,090 square feet. Upon completion, the Project will consist of mix uses including retail, commercial, restaurant, and residential. The Project is also subject to certain restrictions based on its recognized historic features.

With respect to the issues under 780 CMR 1012.6, the Board found that there was a hardship, given the structural limitations, in having the handrails, with respect to the locations of the runby at the base of a set of stairs, fully comply with the Code. The Board also considered that the City did not oppose allowing a variance. Security devices located at the runby of the handrails could be relocated.

Next, the Board considered the issues with 780 CMR 1022.6. A new, glass entry/three-story stairway will be constructed to provide a main entrance to the Project. There are numerous existing windows within ten feet of the new entrance structure and must remain to provide light within the

building. Fixed water spray sprinklers would be at each opening, instead of installing opening protectives or fixed-rated glass.

The next issued involved 780 CMR 1301.1.1. The Project will not meet Code requirements for energy efficiency in new construction. Windows and roofing were replaced within the last ten to fifteen years. Although those elements could be more energy efficient, it would not be cost-effective to replace them now. The life expectancy of the current roofing may be approximately ten to fifteen years. (Upon replacement, insulation would have to be installed to meet Code.) The design choices have interior spaces marketed as having exposed brick walls. The results would be a structure approximately 3% below present Code energy requirements. Adding interior insulation might gain only 1%, and would likely not be cost-effective.

Next, the Board considered issues regarding 780 CMR 1009.4. Three existing stair towers (poured-in-place concrete stairs) contain 8" and 10" treads, rather than 7" and 11" as required by the Code. To achieve Code compliance would require extraordinary changes to concrete and masonry structures.

Finally, the Board considered issues regarding 780 CMR 1022.3. An octagonal-shaped stairway at the East end of the Project includes an elevator. This feature was constructed approximately 15 years ago, and was Code compliant at that time. It would be a hardship to demolish the existing elevator within the stairway and construct a new elevator elsewhere to comply with the Code.

### Conclusion

The Board considered a motion to allow a variance from 780 CMR 1012.6, on the conditions that: the handrails are extended as far as practical and security devices are relocated ("Motion"). The Motion was approved by unanimous vote. Next, the Board considered a motion to allow a variance from 780 CMR 1022.6 on the conditions that appropriate window sprinklers are installed on the interior side of the openings (Motion Two). Motion Two was approved by unanimous vote. Next, the Board considered a motion to allow a variance from 780 CMR 1301.1.1 (based on the considerations discussed above) and on the condition that the Project comes within 3% of meeting the Code's energy efficiency requirements (Motion Three). Motion Three was approved by unanimous vote.

The Board considered a motion to allow a variance from 780 CMR 1009.4, based on the considerations described above (Motion Four). Motion Four was approved by unanimous vote. Finally, the Board considered a motion to allow a variance from 780 CMR 1022.3 to allow an existing elevator within a stairway to remain, based on the considerations discussed above (Motion Five). Motion Five was **approved** by unanimous vote.



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H. Jacob Nunnemacher

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Douglas Semple, Chair

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Alexander MacLeod

*Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to Superior Court in accordance with G.L. c.30A, §14 within 30 days of receipt of this decision.*

DATED: December 7, 2011